HOLIDAY GOODS!

M double Consisting of

Leces, Embroideries,

Trimmings, Tidies, and m 89 A. D. Satchels, Fans,

Childrens' Dresses

ALSO-1 LARGE IND WELL ASSORTED STOCK OF

Beaver Hats. Feathers and

Flowers. Just Received ex "Mariposa,"

And Now Opened For Inspection at

A. M. MELLIS',

104 FORT STREET.

M. B .-- Store Open till 8 P. M. During the Holidays.



ISELL

SO /S"TO PLACE THEM

Within the reach of everybody FROM THE

Simplest Time-Keeper to the Finest Finished Adjusted Watch.

I Warrant them all Perfect In Every Way.

If you Want the Worth of your Money, I Will Give it to You in

WALTHAM WATCH

M. MCINERNY.



JOHN NOTT,

At the Old Stand. No. 8 Kaahumanu Street,

TIN, COPPER & SHEET IRON WORKER

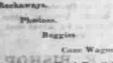
PLUMBING, in all its branches;

Artesian Well Pipe, all sizes:

STOVES AND RANGES

Galvanized Iron Water Pipe, all sizes, and laid on at Lowest Rates: Cast Iron and Lead Soil Pipe,

House Furnishing Goods, all kinds;



Dawaiian Gazette.

WEDNESDAY, MARCH 10, 1884.

ARLES T. GULICA, MUNISTER OF THE IN WHITIM FRANCE.

This is an action in equity to obtain an injunction. All the facts in the case are admitted. Only conclusions of law treen those facts are in controversy. Nearly all the essential facts rest in decreases which are quoted at large in the electricity and examet well to epitemised a shall therefore, quote the full and answer in full. They are as follows:

apreme Court of the Hawaitan Islands In Equity. TIRLES T. GELNER, MINISTER OF THE IN-Bellev Mr. Justin Annie

the Honorable & Passes June.

e files this bill of complaint and to unto the Court: That by low there is vested in him Minister of the Interior the gen

defendant, to so construct a system of transways upon the streets of Hausdain and suburbs as aforesaid. But your exater protests, and gives that such instrument, if any such defendant has, contains, and can contain, no legal or vaind authority or license to suist debendant to so construct transways or my transway as aforesaid.

Nucl.—All which doings and protentes on the part of said defendant are contrary to equity and good conscience, and hend to the manifest wrong and injury of His Majesty's Gevenment, and the public at large.

In consuleration wherevol, and to the end therefore, that said defendant may

tion and belief, and as to those matter be believes it to be true.

he believes it to be true.
(Signed) Changs T. Guerra.

8 Subscribed and sworn before me this
27th day of August. 1883.

Brsz. H. Assus,
Justice Supreme Court Let process and injunction issue as prayed for, returnable before me, at my chambers, on Monday, September 3, 1883 (Signed) Basi, H. Austra, Justice Supreme Court Honolulu, August 27, 1883

by your predecessor, under date of thir-tieth of June. I propose to commence preparations for laying horse trainways, and lave instructed my engineer. Mr. Julius H. Smith, accordingly. I propose to commence work at the corner of Punchbowl and King streets,

HONOLPEY, August 27, 1883. of the Interior, etc. the purpose of laying rails for the tran way Mr. Flowerdew intends laying—upon Saturday, August 25th, at 7 a.s.—I hav

ent servant.
(Signed) Junes H. Surra, C. E.

WILLIAM FLOWERDS

Katasaua, by the Grace of Gen. Hawaijan Islands King. To WILLIAM FLOWERDER, his atten-

or from any arc or construction insector treet railroad, or any entry upon any of aid streets, with the inlent and purpose I committing any such net until the fur-her order of this Court.

Witness the Honorable Beausing H.

Averts, Justice of the Supreme Court a Honolulu, this 27th day of August, 188 [Seal] (Signed) Witanax Feetin [Seal] (Signed) William Festill Clerk of the Supreme Court W. M. Gibson, Attorney General C. W. Ashford, Solicitor for complain

PERSON, VS. WILLIAM PLOYERS.

June last, Walter Murray Gibson, Mini-ster of Foreign Affairs and Amorney General of this Kingdom, called upon this defendant, at his rooms in Honolinh

and defendant will execute his threat or o entering upon said streets and then and here digging up the surface of the same and constructing therein and thereon said such application, in the words and sent application, in the words and sent application, in the words and sent following, that is to say Hosoners, June 26th, 1881

sensit And it is further shown to the Court that your weater is informed and believes, and so states the truth to be, that said defendant has imported into this kingdam and now holds in realiness for such gurpose large quantities of iron rails and other material appropriate and recessary to the construction of said proposed trainways, and that said defendant has declared his design to use said material for such purpose.

Registr And your center further shows that the rails are proposed in the capital of the further shows that the rail and other material and pelicuse, and so states the truth to be, that said defendant has declared his design to use said material for such purpose.

Registr And your center further shows that he is informed and policuse, and so states the truth to be that said defendant fully arthorizes him, the suid defendant fully arthorizes him, the suid defendant, the proposed in the formal proposed truther and proposed truther shows that the istrument as is claimed by and defendant, fully arthorizes him, the suid defendant, the proposed in the formal proposed truther and proposed truther

If it is considered necessary, I shall be not the propared to enter into a fair and reason and therefore, that said defendant may fulf, true direct and perfect answer make to all and singular the matters and things have necessary and things have necessary and the propagate of the time specified. As it is important for me to know, be free arrival of the mail steamer whether the propagate of the propagate or not I am to be enabled to commence

Chandeliers, Lamps, Lanterns

If a law wall and soften assert make the state and perfect answer make the state and perfect and perfect to the wall instead to perfect answer make the state and perfect and perfect to the wall instead to perfect answer make the state and perfect to the wall instead to perfect answer make the state and perfect to the wall instead to perfect answer make the state and perfect to the wall instead to the wall instead to the perfect to the wall instead to the perfect

(Signed) W. Flowerist.

Sant That this defendant accordingly received to San Francisco, and incurred insiderable expense in the purchase of aterial and cars for the purpose of the aid undertaking and engaged an engineer for the purpose of superintending he laying down of such framways, acting pen the belief that he was properly allowined by the said John E. Bash, by its letter of the thritteth day of June last, and this defendant, acting upon the same clief, caused the plan mentioned in the first paragraph of the plaintiff's said bill the prepared and forwarded to the plaintiff. And this defendant submits that the

blic punce.

Second - And this defendant further
at that he is advised and believes that
onid the plaintiff succeed in preventing
is defendant from carrying out his said
dertaking, according to the permission
anted as aforesaid, the Hawaiian Gov
ament is and will be responsible to this
fendant for damages sustained by him
consequence thereof.

ch and seventh paragraphs of the said I. Visit. That the plaintiff well knows. If at the time of the filing of his said of complaint well knew, that this declarat held the said letter of the thirt this y of June. And this defendant naits that he does claim such letter to be the effect stated to be claimed by the

Test. That, on the 14th day of Augus st, this defendant received a letter from the plaintiff in the words, and figures fol

the plaintiff in the words and figures tolowing, that is to say:

DIFFRED THE TO THE INTERIOR, |
HONOITHE, August 14, 1883 |
Mr. WM. FLOWERDEW, Hawaiian Hotelthee Sie In reference to the scheme of laying down street trainways in the city of Honoidlu, for which you claim a minsterial authority, and which you desire to mangurate, and which has been the subject of our lawe are quite clear in defining the powers of a minister, and especially of the Minister of the Interior, in any work the Minister of the Interior, in any work Minister of the Interior, in any work internal improvement, distinctly stating at his action must depend upon the casent of the King in Privy Council," it does not confer on him the authority act independently consequently His justy's Government feel, that in justice the interest you represent, as well as to inble them to sustain your enterprise to lyantage, they must conform strictly to

rel to permission granted me by perty's late Minister of the Interior own transways and run cars in the mit roads of the city of Honolulu anonths. These to are the city

sent to the plaintiff letters in me and figures following, that is to say: and figures following. August 21, 1883. stee of the Interior, etc.—Sir. Having re-coved report and outline of street railway from the engineer. I have the honor to and you copies for your information. You will observe that the rails will be and from the water front at bottom of

runcisco and elsewhere.

I have the honor to be. Sir. your most bedient servant.

Signed)

W. Flowerder.

Enclosures: Ford. Engineer's report:
Seased Map of Honolulu, with outline of
street railway, marked in red.

Hosolulu, August 24, 1883.

To His Excellency C. T. Gellers, Min
ister of the Interior, etc.—Sir: Referring
to my letter of the 20th instant, covering
engineer's report to me, and plan of Honoidin, I wish to say that the statement and
report is relative to the work intended to
be proceeded with at present, and is made
without prejudice to the rights granted to
me by the late Minister of the Interior,
which rights I do not waive, and only
forward the report and statement for your
information.

The amorgane advices we that it was beconstantly and supervision of all govenment property whalsoever, not express
jy placed in the charge of some other offs
ext.

The government has a property in the
public streets of Honolula, and the property
is in the custody of the plaintiff, under Section 39.

Section 40 of the Civil Code provides
that the Minister of the Luterior shall be
listed by the preservation and safe
temperature of the government property, and
it was the supervision of all govenment property which severs, not express
jy placed in the charge of some other offs
ext.

The government has a property in the
public streets of Honolula, and the propetty is in the custody of the plaintiff, under Section 39.

Section 40 of the Civil Code provides
that the Minister of the Luterior shall be
late the preservation and safe
the property which charge of some other off
to ext.

The government has a property in the
cut.

The government has a property in the
public streets of Honolula, and the propetty is in the custody of the plaintiff, under Section 39.

Section 40 of the Civil Code provides
that the Minister of the Luterior shall be
his duty to present any per
son injuring, trespassing upon, or wrong
for the control of the Civil Code provides
that the Minister of the Luterior shall be
accountable for the preservation and
some of the property in the
cut.

sir, your obedient servant,
(Signed) Joess E. Bess.

Minister of the Interior.

This defendant then wrote and sent to the said John E. Bush a letter in the words and figures following, that is to say:

Hoxoners, July 2, 1883.

His Excellency Joes E. Bess., Minister of the Interior, etc.—Sir. I have the homor to acknowledge receipt of your letter dated June 30, granting permission to make transways in this city, and I thank you for you kind wishes for the success of the undertaking.

There for San Francisco by the mail steamer, now due, and shall make the increasing of the moderation. There is no the moderation of the undertaking with this undertaking.

There the homor to be, sir, your most obedient servant.

(Signed) W. Flowerbers.

Beretama street from r ori street to Nua-anu street, thence along Nunanu street towards the Pali, also along King street from beyond the Oahu Prison road to Wa-kiki. It is under consideration, the laying of rails and running cars on Beretama street, but if this is decided upon, due no-tice will be given before the expiration of the six months allowed, as well as of any other street or mad it may be decided to other street or road it may be decided

It is intended at present to lay a single time of rails only, three feet and six inche gauge, the cars to be drawn by horses of mules only; no locomotive will be used. Should the upplication of compresses air or electricity be considered advisable this will be a matter for consideration with the then Minister of the Interior, or by arbitration if necessary. Although at present only a single line of rails will be laid with the necessary turnouts, still if the traffic shows that the orbite would be better served and account

justly's Minister of the Interior, to said streets, or that the same is a violation of other public and rights, or destructive of His by highway, or prejudicial to the of the law, or a menace to the pence.

And this defendant further hat he is advised and believes that the plaintiff succeed in preventing fendant from carrying out his said sking, according to the permission I as aforesaid, the Hawaiian Gov.

kind.

In the more crowded portions of the routes the work will be done at night or early morning, so as not to interfere with the free passage of vehicles.

SECOND.

The rails used will not be under eight en pounds per yard, and where necessary, searier rails will be employed. They will be inid flush with the streets, and in a

se and flush with the streets, and in a proper and workmanlike manner. The cars will be of the best American type, and some have been already ordered from a leading builder in San Francisco. The cars, after sunset, will carry the The cars, after sanset, will carry the usual lights of street railway cars.

Bridge blocks will be provided for proper protection of the fire hose in case of fire. Should any matter arise, not mentioned or provided for in this memorandum, they shall be arranged hereafter by agreement between the Minister of the Interior and the engineer in charge of the work.

between the atmisser of the more and the engineer in charge of the work.

The buildings and site of stable of the andersigned will be established within the city limit of Honolulu, as regulated by law, and that a license be granted him un-der the rules and regulations governing such matters. And if located at such place as a recovery to lead the water thereon.

as is necessary to lead the water thereon,
that a supply necessary for the use of the
establishment should be provided, the un
dersigned paying the usual rates,
rains.

If necessary, the government is to grant
the privilege of taking of sand and stones
from any quarry belonging to the government, the quantity of which will be accordment, the quantity of which will be according to its requirement, at every irregularity of the street or road, not to enceed—tons and if a larger quantity is required per mission will be at once supplied. Also for the temporary use of its carts, wagon and machinery, if not otherwise occupied the government receiving such compensation as may be agreed upon together will the privilege of prison labor if required.

FOURTH.

The undersigned is willing to concedute privilege and extend the courtesy to those personages passage free as are demoninated in the following tables, viz: Their Majesties the King and Quee and the Reyal Family, to Governmen Officials, Police and Messengers on sp cial duties. That the Government will t allowed free use and run cars on the rails, though not interfering with the

The passenger fare will not exceed the fares enumerated in the following

Mr. Smith the eng in the service of this work to concur and agree with your Excellency any further matters that are not expressed in this

commence work.

All which doings and pretenses on the part of the plaintiff this defendant submits are contrary to equity and good conscience, and prejudicial to the rights of this defendant and tend to subvert His Majesty's (December 1) and the read faith these of the rights of this defendant and tend to subvert His Majesty's

Decision of the Court by America, J. The defendant first objects, in abute ment, that the plaintiff is not the proper arry to bring this action. I believe he is.

ection 30 of the Civil Code says the

to establish in the streets of Honolulu and subaris, and over and upon every foot of those streets, a system of street railways to the has are usual in San Francisco and New York. If it were to be conceded that the Minister of the Interior had power to make such a grant. It would be an extraordinary, unusual and unprecedented grant, which ought not to be made, and of which the public might well complain. The right sought to be conveyed is perpetual, because no time is mentioned for its discontinuance, and exclusive because, if fully cororised no other person could exercise a similar right.

The right cought not to be conveyed is perpetual, because no time is mentioned for its discontinuance, and exclusive because, if fully cororised no other person could be exercise a similar right.

Cabinet Council, shall have power to least, sell, or otherwise dispose of the public lands and other property, in such manner as he may deem test for the promotion of agriculture and the general welfare of the Kingdom, subject, however, to such restrictions as may from time to time be expressly provided by law.

Section 167 says: The Minister of the Interior shall be, and is hereby charged with the superintendence and manage ment of the internal improvements of the Kingdom; and he may, with the approval of the King in Privy Council, appent an officer, to be styled the Superintendent of Public works, to assist him in the dis-Public works, to assist him in the dis-charge of this branch of his duties.

These sections do not authorize the grant of such a right.

The definition of franchise by Bouvier, in

cases, in the State of New York, are leading cases on the matters involved in this case, and those cases all hold, and no well considered case can be found against them, that the granting of a street railway framedise is vested in the legislature, and must be directly or indirectly made by the legislature. Those cases hold, as has been hold in England and in most of the United States that a framehise to operate a surface railway where the rails are flush with the streets, and the cars drawn by herses upon tracks which can be used by other vehicles, if duly granted by the legislature, is not in consistent with the ordinary use of the public streets, if reasonably exercised, and that those who bencher on the streets are not entitled to receive compensation as for property taken under the right of em-

of fully exercised, no other person could exercise a similar right.

The authority of the Minister of the Interior to grant such a right rests if any enactment which I think would authorize.

where in statute.

On examining the statutes the only provisions I can find which could possibly be supposed to authorize such a grant, are Sections 34, 42 and 167 of the Civil Code.
Section 34 says, It shall be the duty of the Minister of the Interior to have a general supervision over the internal affairs of the Kington, and to faithfully impartially execute the duties assigned by law to his department.

Section 24 says, II shall be the duty of the Minister of the Interior to have a general supervision over the internal affairs of the Kington, and to faithfully impartially execute the duties assigned by law to his department.

law to his department.

Section 42 says: The said minister, by and with the authority of the King in Calainet Council, shall have power to lease, sell, or otherwise dispose of the public tends and other reports, is such samples and there was in terms secured to him a lands and other reports, is such samples.

charge of this branch of his duties.

These sections do not authorize the grant of such a right.

The definition of franchise by Bouvier, is a "privilege conferred by grant from the government and vested in individuals." The rights to spende railroads are such franchises and can only be granted by the government. Sec. 3, Paige, 45; 14 N. Y., 506; Cooley on Constitutional Louistations, pp. 276, 279, 195, 394, 396.

What are known as the surface railway casses, in the State of New York, are leading casses on the matters involved in the

General Merchandisc.

The Oldest, Largest, Best and Cheapest Furniture Store in the Kingdom.

BURNINURB WAREROOMS.

Established 1859.

C. E. WILLIAMS, : : : : PROPRIETOR. San Francisco

AND THE EAST. Another Large Addition to my Already large and Varied Stock

Musical Instruments, Sewing Machines, de., de., de.

I Keep in Stock a Full Line of

CHAMBER SETS, A Complete Assortment Cheap Furniture, A Large Assortment of -

A Full Asstortment of Upholstering Materials, Genopening Silk Cotsline, Silk Plushes, Raw Silks, Cockmercs, Serges, Danasks, Reps, Hair Clots and Leather. ALSO—Cords, Gimps and Fringes.

The Property of the Control of the Heart and Foother Mattresses and Pillows on hand and made to Grace. Changasa Spring Reds, the Best in use; will last a life time. ALSO-Pinefore and Star Spring Reds and Wowsa Wes Mattresses, assorted sines. Spring Mattresses MADE TO ORDELL Window Sudden Print and Patent Spring Relations. Having Secured the Services of MR. D. SANDERS, The Well known Nor Francisco Uphodinarer and Draper, who has had large experience in the Finest Annel of Uphodsterr, I can propored to do all kinds of Work in that Line NTHE ISSN AND LATEST STYLE.

Curtains, Draperies and Lambrequins, ALSO-Lone Cours Out and Made in the Latest Styles.

Mirror Plates and Picture Glass; M.S.O.—a great variety of Fency Picture Frame., rand, cabinet and argue sizes; the very latest style of Picture & Cornice Mouldings, Picture Frames. Window Cornices made its order. A large variety of lishly Garriages and Robes, Children's Express Wagons, Carls and Weekingtrows, Rose Rall Bata, &c. PIANOS FOR SALE OR HIRE !

is, Concertings, Accordings, Guitars, Bourges, Tambourtons, and all kinds of Musical Instruments always on hand and for Sale Chemper than alsewhere. Violin, Guitar and Ranjo Strings of the EEST MAKE, at 25 conts per Set or 12%, Cents each. WALL PAPER!

C. E. WILLIAMS, Hemelula, H. I., Omec and Warrence, 111 Fore Scient. Telephone, No. 74. Work thou 68 and 70 Henel Steel. C. E. WILLIAMS,



COFFINS & CASKETS

Hearses and Carriages for Funerals AT REASONABLE RATES THE Office, No. 111 Fort Street. Telephone and Night Alarm, No. 76.

Mules! Horses! Fowler's Patent Tramway, Both Native & California

GOOD FAMILY HORSES of my STERLER Corner of Procisions

TakeNotice !!!

Capt. John C. Cluney. KNOWLES' STEAM AND VACUUM PUMPS

THE UNDERSIGNED HAVE JUST

FOR SALE.

The Tourists' Retreat, At Housape, Rau, Hawsit.

PROCEERS AND OTHERS, INTERBING to many the Volcine, will dud First class Accom-ses Sandin Hagier, Se. at THE RETURNAT. The consists on Hermany is Carbonic on the Mannes, manufact, A first size is had at the community Scane sanding of the Volcine, from the House.

Hemp and Flax Canvas.

A N ASSORTMENT: IN BOND, OR
DOTT PAID

ff. And this defendant submits that the not John E. Bush had good and suffi-ent authority to give the permission mained it his said letter of the thirtieth numed it in its said setter of the farment it of June, and he denies that the carry good of the said undertaking would an contempt of the plaintiff's rights as is Majesty's Minister of the Interior, to nutrol said streets, or that the same ould be a violation of other public and truth rights, or destructive of History or the control said streets of History or destructive of History or the control is the control of the control is not seen to be control of the control

unsequence thereof.

shot. That this defendant admits the
ral allegations contained in the fifth

(Nigned) Cass T. Gunes.

Minister of the Interior.

Which letter was answered by this domaint on the sixteenth of the said when on the sixteenin or month, as follows:
However, August 16, 1883.
His Excellency C. T. Genex, Minister of the Interior, etc. Soc. In answer to the Communication of the 14th instant, were communication of the 14th instant,

convenience land from the water front at bottom of vived in the Fort street up to Kukin street into Nuntile Unified where and from Fort street to and up Nunant street this King and along King street from beyond Oahu prison road to Warkiki.

It is intended to lay a single line of control of the street, the cars from he have rower only.

of San Francisco, an engineer who is well known for his capacity and ability, and who has laid several street railways in San

is the honor to be, sir, your most bedient servant.

Thereach—That this defendant decline o sign such document and caused notice to be given as aforesaid of his intention to

Government and the good faith thereof and the proper respect therefor. Erwann Parseros. Cacil Brows, Solicitors and of Counsel for defendant

Minister of the Interior shall have the charge custody and supervision of all gov-ernment property whatsoever, not express-ly placed in the charge of some other offi-

PIONEER

I Have Just Received,

Furniture, Upholstery, Pianos,

Walnut, Ash, Painted, Stained, Varnished

Parlor Sets, Lounges, Patent Bed Lounges & Sofa Beds, Easy Chairs, Patent Spring Borkers, latest designs; Ottomana, Foot Books, Pano Stools, Ac.,

A LARGE ASSORTMENT OF MIRRORS,

A FEW FACTS....I HAVE A LARGER STOCK THAN ALL the Kingdom. Our Price are the LOW EST and all

Undertaker. Undertaking in all its Branches

WithPatent Steel Sleepers Cone Cars.

AP TREMS NOPERSTE.

J. W. SHITHIES, Procurette.